

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Harold Rodriguez	Team: Squad #11	CCRB Case #: 201707713	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 09/11/2017 10:00 AM	Location of Incident: In front of § 87(2)(b)	Precinct: 68	18 Mo. SOL 3/11/2019	EO SOL 3/11/2019	
Date/Time CV Reported Mon, 09/11/2017 1:50 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 09/19/2017 12:22 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			Unknown
2. LT Idris Guven	00000	936720	068 PCT
3. POF Nancy Afaneh	04290	952385	068 PCT
4. POM Patrick Memi	05078	958923	068 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Klambatsen	11874	956804	068 PCT
2. POM Stevenson Laporte	25231	963108	068 PCT
3. POM Mohammad Kifaieh	16048	950678	068 PCT
4. POM Lumumba David	27958	936434	068 PCT
5. POF Rochelle Paulburton	10737	961079	068 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Nancy Afaneh	Force: Police Officer Nancy Afaneh used physical force against § 87(2)(b)	
B.POM Patrick Memi	Force: Police Officer Patrick Memi used physical force against § 87(2)(b)	
C.LT Idris Guven	Abuse: Lieutenant Idris Guven interfered with § 87(2)(b)'s use of a recording device.	
D.LT Idris Guven	Force: Lieutenant Idris Guven used physical force against § 87(2)(b)	
E. Officers	Force: Officers used physical force against § 87(2)(b)	
F.LT Idris Guven	Force: Lieutenant Idris Guven restricted § 87(2)(b)'s breathing.	
G.LT Idris Guven	Discourtesy: Lieutenant Idris Guven spoke discourteously to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
H.L.T Idris Guven	Force: Lieutenant Idris Guven used physical force against § 87(2)(b)	

Case Summary

On September 11, 2017, Lieutenant Idris Guven of the 68th Precinct filed the following complaint with IAB on behalf of § 87(2)(b) and § 87(2)(b) generating log number 17-35324. The complaint was received at the CCRB on September 19, 2017. This case was truncated on October 26, 2017 as § 87(2)(g). It was re-opened on April 18, 2018 at the request of the § 87(2)(b)'s civil attorney at the time. § 87(2)(b) provided sworn statements to the CCRB on May 22, 2018.

On September 11, 2017, § 87(2)(b) got into a physical altercation with construction workers working at § 87(2)(b) in Brooklyn. Several officers from the 68th Precinct responded to the location. Police Officer Nancy Afaneh and Police Officer Patrick Memi grabbed § 87(2)(b) and allegedly slammed him against a nearby vehicle (**Allegations A and B – Force:** § 87(2)(g) § 87(2)(b) approached officers to record the officers as they arrested § 87(2)(b) using her cell phone and was allegedly thrown to the ground by Lieutenant Guven and unidentified officers, thus interfering with her ability to continue recording the arrest (**Allegations C and D – Force:** § 87(2)(g) (**Allegation E – Force:** § 87(2)(g)). Lieutenant Guven allegedly placed his elbow on the back of § 87(2)(b)'s neck, restricting her breathing (**Allegation F – Force:** § 87(2)(g) § 87(2)(b) tried to record § 87(2)(b)'s arrest using his cell phone was allegedly told by Lieutenant Guven to, “get off the fucking sidewalk” asked, “Do you want to challenge me, motherfucker?” and allegedly said, “I just dry cleaned my fucking white shirt” all by Lt. Guven (**Allegation G – Discourtesy:** § 87(2)(g) Lt. Guven grabbed § 87(2)(b)'s arm and brought him down to the ground (**Allegation H – Force:** § 87(2)(g)).

Video footage for this case was obtained by the CCRB's Field Team from a § 87(2)(g) in Brooklyn.

This case was reassigned to the undersigned investigator from Investigator Volha Shauchenka on July 2, 2018.

Findings and Recommendations

Allegation A – Force: Police Officer Nancy Afaneh used physical force against § 87(2)(b)

Allegation B – Force: Police Officer Patrick Memi used physical force against § 87(2)(b)

According to § 87(2)(b) there was an ongoing dispute between construction workers at § 87(2)(b) in Brooklyn and his family. § 87(2)(b) called 911 to report that the construction workers had crossed into his property and cut the pavement on the side of the § 87(2)(b)'s house. Several officers responded and § 87(2)(b) was approached by PO Afaneh, PO Memi and Lt. Guven. Lt. Guven was standing approximately three feet away from § 87(2)(b) when he yelled, “Stop resisting arrest!” although they had not interacted with each other at this point. PO Afaneh and PO Memi grabbed § 87(2)(b) and slammed him against the hood of a parked vehicle. Four unidentified officers that § 87(2)(b) could not describe assisted in placing him in handcuffs.

§ 87(2)(b) stated that he was standing approximately 90 feet away when he observed PO Lamumba David slam § 87(2)(b) onto the hood of a car and handcuff him. The investigation determined that PO David was not involved in § 87(2)(b)'s

arrest and that PO Memi and PO Afaneh were the officers involved in the apprehension and the ones who placed § 87(2)(b) in handcuffs.

§ 87(2)(b)'s statement was consistent with that of § 87(2)(b) with no exceptions noted.

§ 87(2)(b) and § 87(2)(b) refused to provide contact information for any potential witnesses or provide the CCRB with any video footage of the incident in their possession. During the course of the investigation, § 87(2)(b) stopped representing the § 87(2)(b) and their representation began to be handled by § 87(2)(b). § 87(2)(b) agreed to provide the CCRB with video footage for the incident. However, he was uncooperative with the investigation and neither he nor his office provided the agency with video footage. The names of the potential witnesses obtained during the sworn statements were searched in CLEAR and Lexis-Nexis databases and were contacted via phone and mail. However, the contact attempts proved to be fruitless.

PO Afaneh and PO Memi testified that they have responded to the incident location on multiple occasions and did not recall this specific incident. They were shown police documents, photos of the individuals involved and a video footage depicting portions of the incident and they did not aid in their recollection of the incident.

Since the incident, Lieutenant Guven has been promoted to the rank of Captain and was interviewed at the CCRB on November 1, 2018. Lt. Guven responded to the location and spoke to the construction workers. They alleged that § 87(2)(b) broke a door in the construction site. Lt. Guven instructed PO Afaneh and PO Memi to arrest § 87(2)(b) but did not recall how his apprehension unfolded. All he could recall was the fact that he wrote "resisted arrest and attempted to break free" in his memo book entries (Board Review 01).

PO Klambatsen, who was assigned § 87(2)(b)'s arrest, was interviewed on October 18, 2018. He did not physically assist in arresting § 87(2)(b). He observed § 87(2)(b) get handcuffed, but did not recall further details of the arrest.

PO David was interviewed at the CCRB on January 9, 2019. By the time PO David arrived at the scene, § 87(2)(b) had already been placed in handcuffs.

PO Rochelle Paul-Burton and PO Stevenson Laporte acknowledged responding to the location multiple times for the same type of dispute but did not recall this specific incident.

§ 87(2)(b) was taken to § 87(2)(b) later in the evening. According to § 87(2)(b)'s medical records, he complained of left forearm pain, left elbow pain, left big toe pain, and right heel pain. The only statement he made regarding the incident was that he was in a tussle with police.

§ 87(2)(b)'s arrest report states that he was arrested for § 87(2)(b) and resisted arrest by tensing up, balling his fist and pulling away from officers. It also notes that a forcible takedown was used to overcome his resistance (Board Review 02).

There are no injuries visible or noted in § 87(2)(b)'s arrest photo and arrest report (Board Review 05).

TRI and ISAR reports prepared by Lt. Guven note that § 87(2)(b) resisted arrest by pushing officers and that a forcible takedown was used to overcome his resistance (Board Review 03).

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

§ 87(2)(g)

Allegation C – Force: Lieutenant Idris Guven interfered with § 87(2)(b)'s use of a recording device.

Allegation D – Force: Lieutenant Idris Guven used physical force against § 87(2)(b)

Allegation E – Force: Officers used physical force against § 87(2)(b)

Allegation F – Force: Lieutenant Idris Guven restricted § 87(2)(b)'s breathing.

§ 87(2)(b) stated that after she saw § 87(2)(b) being arrested, she started crying, yelling and demanding that the officers explain why he was being arrested. She denied physically interfering with the arrest. As she was trying to record it using a cellphone, Lt. Guven and an unknown number of unidentified uniformed officers pushed her to the ground.

§ 87(2)(b) was stood up and she complained of wrist pain and scratches. She yelled, demanding to know why she was being arrested. Lt. Guven placed his elbow on the back of her neck, causing her breathing to be restricted for an unknown amount of time. She complained to Lt. Guven that she could not breathe. Lt. Guven claimed that § 87(2)(b) had assaulted him and walked her to a marked police vehicle. Later at the 68th Precinct stationhouse, she asked for medical attention and was taken to § 87(2)(b) in Brooklyn.

§ 87(2)(b) stated that he saw § 87(2)(b) trying to record his arrest and did not try to interfere. He did not see how § 87(2)(b)'s arrest was initiated but eventually observed Lt. Guven grab her by the shoulders along with two unidentified officers that he could not describe and tried to push her to the ground. § 87(2)(b) remained standing and instead got wedged between two vehicles.

§ 87(2)(b) stated that Lt. Guven threw § 87(2)(b) down to the ground and then stood her up. Lt. Guven placed his forearm on the back of § 87(2)(b)'s neck for approximately seven seconds and she complained that she could not breathe. § 87(2)(b) was dragged towards a police vehicle and her foot was either caught in a tire, in a pothole or someone stepped on her foot.

Lt. Guven could not recall which officers arrested § 87(2)(b) and denied being one of these officers.

PO Klambatsen stated that § 87(2)(b) interfered in § 87(2)(b)'s arrest by trying to pull Lt. Guven off of § 87(2)(b) as he tried to place the latter under arrest. He did not see Lt. Guven place his arm against § 87(2)(b)'s neck and she did not complain that she could not breathe. The only force used was limited to placing § 87(2)(b)'s arms behind her back. As the officers attempted to handcuff her, she stiffened her arms, pulled away and twisted her body.

PO David and PO Laporte's statements were consistent with PO Klambatsen that § 87(2)(b) interfered in § 87(2)(b)'s arrest by trying to pull him away from Lt. Guven. They did not know if she was taken down to the ground.

PO Afaneh, PO Memi, and PO Paul-Burton had no recollection of § 87(2)(b)'s arrest.

§ 87(2)(b)'s arrest report prepared by PO Klambatsen states that she interfered by blocking § 87(2)(b) with her body and tried pulling officers away from him. It also notes that she resisted arrest by pulling her arms forcefully away from officers and

stiffening and twisting her body. Lt. Guven's ISAR report corroborates PO Klambatsen's arrest report narrative.



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Video footage obtained from a security camera located [§ 87(2)(b)] only captures [§ 87(2)(b)] being escorted towards a police vehicle, starting at five seconds of the video. At the 14 second mark, [§ 87(2)(b)] appears to walk on her own but attempts to pull away from the escorting officer several times as she appears to yell at individuals at the scene. There is no indication of her limping as she walked towards the police vehicle.

A Medical Treatment of Prisoner Report prepared by EMS at the 68th Precinct stationhouse, notes that [§ 87(2)(b)] complained of knee pain, wrist pain and toe pain but does not note what caused the pain.

The Pre-Hospital Care Report prepared by EMS states that [§ 87(2)(b)] complained of wrist pain, knee pain and toe pain and complained that her toenail polish was chipped. She initially refused medical treatment but was eventually transported to the hospital. There was no information included about the incident listed in this report.

[§ 87(2)(b)]'s medical records note that she complained of pain to her wrist, knee and toe from being forced onto her knees by police officers. She was diagnosed with pain and given Ibuprofen. The entire time at the hospital, [§ 87(2)(b)] was noted to be aggressive, uncooperative and yelled expletives and racist remarks towards officers, hospital staff and EMS personnel.

[§ 87(2)(g)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[§ 87(2)(g)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation G – Discourtesy: Lieutenant Idris Guven spoke discourteously to [§ 87(2)(b)]

[REDACTED]
[§ 87(2)(b)] alleged as he was being arrested, Lt. Guven cursed at him but he could not recall his exact words.

During her sworn statement, [§ 87(2)(b)] alleged that Lt. Guven said to [§ 87(2)(b)] at the time of his arrest, "Get off the fucking street" and asked "You wanna challenge me, motherfucker?" She also claimed that Lt. Guven also said to [§ 87(2)(b)] "I can't believe this. I just dry cleaned my fucking white shirt."

According to [§ 87(2)(b)] Lt. Guven only said to [§ 87(2)(b)] in the 68th Precinct stationhouse, "Motherfucker look what you did" in reference to his white shirt.

Lt. Guven did not recall cursing at [§ 87(2)(b)] during the incident.

PO Afaneh, PO Memi, PO David, PO Laporte, PO Klambatsen and PO Paul-Burton did not recall if Lt. Guven cursed at § 87(2)(b)

§ 87(2)(g), § 87(2)(b)

Allegation H – Force: Lieutenant Idris Guven used physical force against § 87(2)(b)

§ 87(2)(b) stated that he stood between two nearby vehicles as he recorded § 87(2)(b) being escorted to a police vehicle. Lt. Guven then grabbed his arm and pulled him onto the ground, where he was handcuffed by Lt. Guven and one other uniformed officer.

§ 87(2)(b) stated that as she was walked towards a police vehicle, § 87(2)(b) followed her, within a few inches away, recording the officers escorting her using a cellphone. § 87(2)(b) did not interfere with her arrest. § 87(2)(b) walked between two vehicles that were parked. Lt. Guven grabbed § 87(2)(b)'s arm and pulled him away from the cars and took him to the ground. She could not see the rest.

§ 87(2)(b) stated that § 87(2)(b) actually walked up to him while he was being arrested and before § 87(2)(b) got involved. He stated that he heard Lt. Guven tell other officers to arrest § 87(2)(b). He initially stated that Lt. Guven pushed § 87(2)(b) to the ground in front of their house and then later stated that § 87(2)(b) tried to cross the street and got wedged between two parked cars when Lt. Guven tried to pull him back, causing § 87(2)(b) to fall on his side.

Lt. Guven stated that during § 87(2)(b)'s arrest, § 87(2)(b) pointed a phone towards her and kept getting too close. Lt. Guven told § 87(2)(b) that he could record but had to step back onto the sidewalk. § 87(2)(b) ignored multiple commands to back away. While § 87(2)(b) was being escorted to a vehicle, § 87(2)(b) kept getting too close to Lt. Guven and at some point pushed the latter in the left arm. Once § 87(2)(b) touched him, he decided to place § 87(2)(b) under arrest. Lt. Guven did not recall further details of the arrest. Lt. Guven was shown video of the arrest and he recalled § 87(2)(b) being taken to the ground due to him resisting arrest by pulling away.

PO Afaneh, PO Memi, PO Klambatsen, PO David and PO Paul-Burton had no specific recollection of § 87(2)(b)'s arrest and PO Laporte did not witness it.

§ 87(2)(b)'s medical records from § 87(2)(b) from later in the day, state that he was brought to the hospital to be evaluated for pain to head, knee and elbow as a result of being forced to the ground by NYPD. He refused treatment and was verbally abusive to hospital staff.



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Video footage obtained from a building located at § 87(2)(b), captures officers, including PO Afaneh and Lt. Guven escorting § 87(2)(b) to a police vehicle. At the eight second mark, § 87(2)(b) is observed following the officers very closely. At the

10 second mark, Lt. Guven motions with his hands for § 87(2)(b) to move back, however, he continuously approached the officers at a very close range. At the 14 second mark, Lt. Guven attempts to grab § 87(2)(b)'s arm and he pulls away. § 87(2)(b) tries to go through two closely parked cars and gets wedged between the two car bumpers. He continuously pulls away while Lt. Guven pulls him back towards the street. At the 24 second mark, Lt. Guven swings § 87(2)(b) around and brings him to the ground by pushing down on § 87(2)(b)'s head. It is unclear whether § 87(2)(b) puts his hands on Lt. Guven during this clip.

NYPD Patrol Guide procedures 221-01 and 221-02 for "Force Guidelines" state that police officers will use de-escalation techniques to safely gain compliance from a subject and reduce or eliminate the necessity to use force. If that is not possible, officers will only use the reasonable amount of force necessary to gain control of a subject (Board Review 04).

§ 87(2)(g)

Civilian and Officer CCRB Histories

§ 87(2)(b)

§ 87(2)(b)

- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- Lieutenant Guven has been a member of service for 14 years and has been a subject in two prior CCRB complaints and two allegations, none of which were substantiated.

§ 87(2)(g)

- CCRB 201005686 with a discourtesy allegation was closed as Unsubstantiated.
- CCRB 201105972 with an offensive language allegation was closed as Withdrawn.
- PO Afaneh has been a member of service for six years and has been the subject in two other CCRB complaints and two allegations, none of which were substantiated. § 87(2)(b)

§ 87(2)(g)

- PO Memi has been a member of service for three years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- § 87(2)(b) and § 87(2)(b) filed a Notice of Claim with the City of New York claiming personal injury, severe shock, severe and continuing mental anguish, psychological trauma, anxiety, fear, humiliation, shame, impairment and damage to character and reputations. They are seeking \$25,000,000.00 in redress. According to the New York City Law Department, as of February 6, 2019, there was no 50(H) hearing on file.

§

§ 87(2)(b), § 87(2)(c)

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Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date